

NO. 26233

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ROBERT KENNEDY, Petitioner

vs.

THE HONORABLE FAYE M. KOYANAGI;
and MARK J. MEYER, Respondents

ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR WRIT OF MANDAMUS TO ISSUE FORTHWITH
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of Petitioner Robert Kennedy's petition for a writ of mandamus to issue forthwith and the papers in support, it appears that: (1) Petitioner is asking this court to direct the respondent judge to dissolve a temporary restraining order entered in Meyer v. Kennedy, Civil No. 1SS 03-1-001619, presently pending in the District Court of the First Circuit, because the court failed to commence a hearing within the time required by HRS § 604-10.5(f), or in the alternative, direct the respondent judge to conduct a hearing forthwith; (2) Petitioner will have remedy by way of appeal if he is dissatisfied with the order or judgment entered in the district court case. See Ling v. Yokoyama, 91 Hawai'i 131, 980 P.2d 1005 (App. 1999); and (3) a writ of mandamus is not intended to serve as a legal remedy in lieu of the normal appellate procedures. Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334,

338 (1999) (citing Straub Clinic & Hospital v. Kochi, 81 Hawai'i 410, 414, 917 P.2d 1284, 1288 (1996)). Therefore,

IT IS HEREBY ORDERED that the petition for a writ of mandamus to issue forthwith is denied without prejudice to any remedy Petitioner may have by way of appeal.

DATED: Honolulu, Hawai'i, December 19, 2003.

Joseph A. Gomes,
for petitioner
on the writ